THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.No.19027 of 2007

Between:

Juluri Venkata Sesha Subba Rao. … Petitioner

and

The Mylavaram Grampanchayat and another. … Respondents

ORDER:

It is the case of the petitioner that in the family partition between the petitioner and his brother, the petitioner got an extent of 55-253 sq. mtrs., in the premises bearing No.7-49 situated at Ram Mandir Road, Mailavaram Village and Mandal, Krishna District. After demolishing the old building, the petitioner obtained permission from the 1st respondent vide proceedings in D.Dis.Nos.213/2000-01, dated 05-09-2001, for construction of a building with two floors subject to compliance of certain terms and conditions. According to the sanctioned plan, the petitioner also obtained permission for construction of a water tank on the third floor. Though there was no permission for construction of the 3rd floor, to construct a water tank, a single room has been constructed on the 3rd floor and over the said room, the water tank has been constructed. Thus, it is stated that no 3rd floor has been constructed and there is no violation of sanctioned plan in constructing the water tank.

It is further stated that as per Condition No.15, two plants should be planted to maintain neatness and greenery and as per Condition No.16, while constructing the 2nd floor, the petitioner shall not erect any windows on the either side causing inconvenience to the neighbours. As per condition No.15, the petitioner planted several plants and even he has not violated condition No.16. On a complaint made on behalf of the petitioner's brother, the 1st respondent issued a notice in ROC.No.7/2007-08,

dated 22-08-2007, stating that no permission has been granted for construction of the room on the 3rd floor and on which, a water tank has been constructed, and for opening of the windows towards southern side also, no permission has been granted and therefore, the petitioner violated condition Nos.15 and 16. Accordingly, the petitioner is directed to remove the unauthorized constructions within 15 days, failing which, necessary action will be taken against the petitioner.

The only grievance of the petitioner is that under the guise of the impugned notice, the 1st respondent passed final order without giving any reasonable opportunity to the petitioner and, therefore, the said notice is illegal and unsustainable.

A perusal of the impugned notice goes to show that the petitioner has not been given any opportunity to submit his explanation before issuing the said notice and the said notice has been issued to remove the unauthorized structures.

Having regard to the facts and circumstances of the case, I am of the opinion that issuance of the said notice to the petitioner shall be treated as a show-cause notice only, so as to enable the petitioner to submit his explanation.

Accordingly, the writ petition is disposed of treating the notice, dated 22-08-2007, as a show-cause notice directing the petitioner to submit his explanation within two weeks from the date of receipt of a copy of this order. Till such explanation is considered and disposed of and final order is passed, the 1st respondent shall not take any coercive steps against the petitioner. There shall be no order as to costs.

07-09-2007

Note:

Issue C.C. in three days

(B/o)

Prv